

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

BOARD OF TRUSTEES of the ROCKFORD )  
PIPE TRADES INDUSTRY PENSION FUND; )  
BOARD OF TRUSTEES of the PLUMBERS & )  
PIPEFITTERS, LOCAL 23, U.A. HEALTH & )  
WELFARE FUND; BOARD OF TRUSTEES of )  
The PLUMBERS & PIPEFITTERS, LOCAL 23 )  
U.A. JOURNEYMAN AND APPRENTICE )  
TRAINING FUND; PLUMBERS & )  
PIPEFITTERS, LOCAL 23 U.A.; and PIPING )  
INDUSTRY COUNCIL OF THE ROCKFORD )  
AREA; )  
Plaintiffs, )  
vs. )  
Defendants. )  
)

) CIVIL ACTION  
)  
) CASE NO. 08 C 50050  
)  
)  
) JUDGE PHILIP G. REINHARD  
KERBY PLUMBING, INC., an Illinois )  
Corporation, KERBY PLUMBING & )  
MECHANICAL, INC., an Illinois Corporation, )  
And CHRISTOPHER KERBY, an individual, )  
)  
) MAG. P. MICHAEL MAHONEY  
)

**DEFENDANT KERBY PLUMBING INC., KERBY PLUMBING &**  
**MECHANICAL INC., and CHRISTOPHER KERBY'S**  
**ANSWER TO THE COMPLAINT**

NOW COMES the Defendants, KERBY PLUMBING INC.,(hereinafter referred to as "Kerby Plumbing"), KERBY PLUMBING & MECHANICAL INC.,(hereinafter referred to as "Kerby Plumbing & Mechanical") and CHRISTOPHER KERBY (hereinafter referred to as "Kerby"), by and through their attorney, THOMAS O. MEYER of MEYER & HORNING, P.C., and in answer to the Complaint, states as follows:

**Jurisdiction and Venue**

1. The Defendants Kerby Plumbing, Kerby Plumbing & Mechanical and Kerby admit the allegations contained in Paragraph 1 of Plaintiff's complaint.

2. The Defendants Kerby Plumbing, Kerby Plumbing & Mechanical and Kerby admit the allegations contained in Paragraph 2 of Plaintiff's complaint.

3. The Defendant Kerby Plumbing, Kerby Plumbing & Mechanical and Kerby admit the allegations contained in Paragraph 3 of Plaintiff's complaint.

4. The Defendant Kerby Plumbing, Kerby Plumbing & Mechanical and Kerby admit the allegations contained in Paragraph 4 of Plaintiff's complaint.

5. The Defendant Kerby Plumbing, Kerby Plumbing & Mechanical and Kerby admit the allegations contained in Paragraph 5 of Plaintiff's complaint.

6. The Defendant Kerby Plumbing admits the allegations contained in Paragraph 6 of Plaintiff's complaint.

7. The Defendant Kerby Plumbing admits the allegations contained in Paragraph 7 of Plaintiff's complaint.

8. The Defendant Kerby Plumbing & Mechanical denies the allegations of Paragraph 8 of Plaintiff's complaint.

9. The Defendant Kerby admits the allegations of Paragraph 9 of Plaintiff's complaint.

**COUNT I**  
**Breach of Contract- Kerby Plumbing**

10. The Defendants re-allege and incorporate their answers contained in Paragraph 1-9 of this answer as if fully set forth herein.

11. The Defendant Kerby Plumbing admits the allegations of Paragraph 11 of Plaintiff's complaint.

12. The Defendant Kerby Plumbing admits the allegations of Paragraph 12 of Plaintiff's complaint.

13. The Defendant Kerby Plumbing admits the allegations of Paragraph 13 of Plaintiff's complaint.

14. The Defendant Kerby Plumbing is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of Plaintiff's complaint.

15. The Defendant Kerby Plumbing is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of Plaintiff's complaint.

16. The Defendant Kerby Plumbing denies the allegations contained in Paragraph 16 of Plaintiff's complaint.

17. The Defendant Kerby Plumbing denies the allegations contained in Paragraph 17 of Plaintiff's complaint.

18. The Defendant Kerby Plumbing admits the allegations contained in Paragraph 18 of Plaintiff's complaint.

19. The Defendant Kerby Plumbing admits the allegations contained in Paragraph 19 of Plaintiff's complaint.

20. The Defendant Kerby Plumbing admits the allegations contained in Paragraph 20 of Plaintiff's complaint.

21. The Defendant Kerby Plumbing admits the allegations contained in Paragraph 21 of Plaintiff's complaint.

22. The Defendant Kerby Plumbing admits the allegations contained in Paragraph 22 of Plaintiff's complaint.

23. The Defendant Kerby Plumbing & Mechanical denies the allegations contained in Paragraph 23 of Plaintiff's complaint.

24. The Defendant Kerby Plumbing & Mechanical denies the allegations contained in Paragraph 24 of Plaintiff's complaint.

**COUNT II**

**Successor Liability- Kerby Plumbing & Mechanical**

25. The Defendants re-allege and incorporate their answers contained in Paragraph 1-24 of this answer as if fully set forth herein.

26. The Defendant Kerby Plumbing & Mechanical admit the allegations contained in Paragraph 26 of Plaintiff's complaint.

27. The Defendant Kerby Plumbing admits the allegations contained in Paragraph 27 of Plaintiff's complaint.

28. The Defendant Kerby Plumbing & Mechanical admits the allegations contained in Paragraph 28 of Plaintiff's complaint.

29. The Defendant Kerby Plumbing and Kerby Plumbing & Mechanical are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29 of Plaintiff's complaint as family is not defined.

30. The Defendant Kerby Plumbing & Mechanical denies the allegations in Paragraph 30 of Plaintiff's complaint as the allegations merely state a conclusion of law and Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 30 of Plaintiff's complaint.

31. The Defendant Kerby Plumbing & Mechanical denies the allegations contained in Paragraph 31 of Plaintiff's complaint.

32. The Defendant Kerby Plumbing & Mechanical is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 32 of Plaintiff's complaint.

33. The Defendant Kerby Plumbing & Mechanical is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 33 of Plaintiff's complaint.

34. The Defendant Kerby Plumbing & Mechanical is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 34 of Plaintiff's complaint.

35. The Defendant Kerby Plumbing & Mechanical is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 35 of Plaintiff's complaint.

36. The Defendant Kerby Plumbing & Mechanical is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 36 of Plaintiff's complaint.

37. The Defendant Kerby Plumbing & Mechanical is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 37 of Plaintiff's complaint.

38. The Defendant Kerby Plumbing & Mechanical is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 38 of Plaintiff's complaint.

39. The Defendant Kerby Plumbing & Mechanical is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 39 of Plaintiff's complaint.

40. The Defendant Kerby Plumbing & Mechanical is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 40 of Plaintiff's complaint.

41. The Defendant Kerby Plumbing & Mechanical is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 41 of Plaintiff's complaint.

**COUNT III**  
**Breach of Contract- Christopher Kerby**

42. The Defendants re-allege and incorporate their answers contained in Paragraph 1-9 of this answer as if fully set forth herein.

43. The Defendant Kerby admits the allegations contained in Paragraph 43 of Plaintiff's complaint.

44. The Defendant Kerby admits the allegations contained in Paragraph 44 of Plaintiff's complaint.

45. The Defendant Kerby admits the allegations contained in Paragraph 45 of Plaintiff's complaint.

46. The Defendant Kerby admits the allegations contained in Paragraph 46 of Plaintiff's complaint.

47. The Defendant Kerby admits the allegations contained in Paragraph 47 of Plaintiff's complaint.

48. The Defendant Kerby denies the allegations contained in Paragraph 48 of Plaintiff's complaint.

49. The Defendant Kerby is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 49 of Plaintiff's complaint.

50. The Defendant Kerby is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 50 of Plaintiff's complaint.

51. The Defendant Kerby admits the allegations contained in Paragraph 51 of Plaintiff's complaint.

52. The Defendants Kerby Plumbing, Kerby Plumbing & Mechanical and Kerby are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 52 of Plaintiff's complaint.

53. The Defendants Kerby Plumbing, Kerby Plumbing & Mechanical and Kerby are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 53 of Plaintiff's complaint.

54. The Defendants Kerby Plumbing, Kerby Plumbing & Mechanical and Kerby are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 54 of Plaintiff's complaint.

WHEREFORE, Defendants, Kerby Plumbing, Kerby Plumbing & Mechanical and Christopher Kerby prays that the Plaintiff's, Complaint be dismissed and a Judgment be entered for the Defendants plus costs of suit.

DEFENDANTS DEMAND TRIAL BY JURY

KERBY PLUMBING INC, KERBY PLUMBING &  
MECHANICAL INC, CHRISTOPHER KERBY,  
Defendants

BY: s/Thomas O. Meyer  
Thomas O. Meyer, one of their attorneys

Thomas O. Meyer  
Timothy F. Horning  
MEYER & HORNING, P.C.  
3400 North Rockton Ave.  
Rockford, IL 61103  
(815) 636-9300

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FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

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PIPE TRADES INDUSTRY PENSION FUND; )  
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INDUSTRY COUNCIL OF THE ROCKFORD )  
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Plaintiffs, )  
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  )      JUDGE PHILIP G. REINHARD  
KERBY PLUMBING, INC., an Illinois )  
Corporation, KERBY PLUMBING & )  
MECHANICAL, INC., an Illinois Corporation, )  
And CHRISTOPHER KERBY, an individual, )  
  )  
  )      MAG. P. MICHAEL MAHONEY

**DEMAND FOR A JURY**

The Defendants in the above entitled cause demands a jury for the trial of said cause.

KERBY PLUMBING INC, KERBY PLUMBING &  
MECHANICAL INC, CHRISTOPHER KERBY,  
Defendants,

BY: s/Thomas O. Meyer  
Thomas O. Meyer, one of their attorneys

Prepared by:

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Attorney Timothy F. Horning  
Meyer & Horning P.C.  
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Plaintiffs,	)	
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KERBY PLUMBING, INC., an Illinois	)	JUDGE PHILIP G. REINHARD
Corporation, KERBY PLUMBING &	)	
MECHANICAL, INC., an Illinois Corporation,	)	
And CHRISTOPHER KERBY, an individual,	)	
	)	MAG. P. MICHAEL MAHONEY
Defendants.	)	

**CERTIFICATE OF SERVICE**

PLEASE TAKE NOTICE that on the 16<sup>th</sup> day of May, 2008, I filed with the Clerk of the United States District Court for the Northern District of Illinois Western Division, Defendant Kerby Plumbing Inc., Kerby Plumbing & Mechanical Inc., and Christopher Kerby, answer to the Plaintiff's complaint, in the above captioned matter. Further that pursuant to Fed. Rule of Civil Procedure 5, Local Rule 5.5 and the General Order on Electronic Case filing, the Defendants' answer to the complaint was served pursuant to the district courts ECF system on the following:

Attorney Dennis R. Johnson  
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 Chicago, Illinois 60604  
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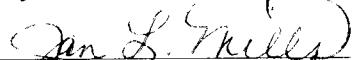
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\_\_\_\_\_  
Timothy F. Horning

Subscribed and Sworn to before me  
this 16 day of May, 2008.

  
\_\_\_\_\_  
Jan L. Mills  
Notary Public



Prepared by:  
Thomas O. Meyer  
Timothy F. Horning  
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